Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BRANDY CIAPANNO, Plaintiff, v. COMCAST CORPORATION and STELLAR RECOVERY INC., Defendants.	Case No. 3:17 cv 05117 RJB ANSWER AND AFFIRMATIVE DEFENSES OF COMCAST CORPORATION AND SRI RECOVERY, INC.

As their answer to the complaint, Defendants Comcast Corporation ("Comcast") and Stellar Recovery, Inc. ("SRI"), admit, deny and allege as follows:

I. INTRODUCTION

1. Defendants admit that the allegations in Plaintiff's Complaint are pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq. ("FDCPA") and the Revised Code of Washington §19.86, but deny any wrongdoing and/or that Plaintiff has any right to relief herein and demand strict proof thereof.

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II. JURSIDICTION

2. Defendants admit that generally, jurisdiction of this Court is appropriate in Federal Court pursuant 15 U.S.C. §1692k(d) and 28 U.S.C. §1331, but deny that Plaintiff has any right to relief herein and demand strict proof thereof. Defendants admit on information and belief the Plaintiff is a resident of Clark County, Washington. Defendants deny all remaining allegations in Paragraph 2 of Plaintiff's Complaint.

III. PARTIES

3.1 Defendants admit on information and belief the Plaintiff is a resident of Clark County, Washington.

3.2 Defendant SRI denies that it is a law firm. SRI further denies that its principal place of business is located at 1327 US Highway, Suite 100, Kalispell, MT 59901. SRI admits that in certain instances, it may be considered to be in the business of collecting consumer debts as those terms are defined by 15 U.S.C. §1692. However, Defendant lacks sufficient knowledge to admit or deny the allegation that it was in the business of collecting consumer debts in the present case, and further states that this allegation calls for a legal conclusion regarding the definition of the cited statute. SRI admits that it utilizes telephone and United States mail in the ordinary course of its business. SRI denies the remaining the allegations contained in Paragraph 3.2 and demands strict proof thereof.

3.3 Defendant, Comcast admits that it is located at 1701 John F. Kennedy Blvd., Philadelphia, PA 19103, but denies the remaining allegations in Paragraph 3.3 of the Complaint for the present time and demands strict proof thereof.

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IV. FACTS

4.1 Defendants admit that in certain instances, SRI may be considered to be in the business of collecting consumer debts as those terms are defined by 15 U.S.C. §1692. However, Defendants lack sufficient knowledge to admit or deny the allegation that SRI was in the business of collecting consumer debts in the present case, and further state that this allegation calls for a legal conclusion regarding the definition of the cited statute. Defendants also admit that in certain instances, an alleged obligation may be considered a "debt" as that term is defined by 15 U.S.C. §1692a(5). However, Defendants lack sufficient knowledge to admit or deny the allegation that the alleged obligation is a "debt" in the present case, and further state that this allegation calls for a legal conclusion regarding the definition of the cited statute. Defendants deny all remaining allegations in Paragraph 4.1 of Plaintiff's Complaint.

4.2 Defendants admit that in certain instances, an alleged obligation may be considered a "debt" as that term is defined by 15 U.S.C. §1692a(5). However, Defendants lack sufficient knowledge to admit or deny the allegation that the alleged obligation is a "debt" in the present case, and further state that this allegation calls for a legal conclusion regarding the definition of the cited statute. Therefore, Defendants deny the same.

4.3 Defendants admit that Exhibit A attached to Plaintiff's Complaint purports to be a letter sent by SRI dated August 25, 2016. However, Defendants lack sufficient knowledge to admit or deny the remaining allegations in Paragraph 4.3 as the language in the

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letter is simply a settlement offer contingent on payment at a future date, and therefore, Defendants deny the same for the present time and demand strict proof thereof.

4.4 Defendants deny the allegations in Paragraph 4.4 of Plaintiff's Complaint.

4.5 Pursuant to the settlement offer letter attached to Plaintiff's Complaint as Exhibit A, settlement was contingent on Plaintiff making a lump sum payment of $384.47 by September 22, 2016. Therefore, Defendants admit the allegations in Paragraph 4.5 to the extent that it is understood Defendants admit the settlement letter was simply a contingent offer of settlement and money had to be received by September 22, 2016 to complete the settlement terms. Defendants deny all remaining allegations in this paragraph.

4.6 Defendants lack sufficient knowledge to admit or deny the allegations in Paragraph 4.6, and therefore, Defendants deny the same.

4.7 Defendants lack sufficient knowledge to admit or deny the allegations in Paragraph 4.7, and therefore, Defendants deny the same.

4.8 Defendants admit that on October 13, 2016, a NDR representative contacted SRI and a SRI representative explained the account had been recalled by Comcast. Defendants deny all remaining allegations in Paragraph 4.8.

4.9 Defendants lack sufficient knowledge to admit or deny the allegation in Paragraph 4.9 of the Complaint and, therefore, Defendants deny the same.

4.10 The allegations in Paragraph 4.10 of Plaintiff's Complaint consist of a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 4.10 of Plaintiff's Complaint.

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4.11 The allegations in Paragraph 4.11 of Plaintiff's Complaint consist of a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 4.11 of Plaintiff's Complaint

and demand strict proof thereof.

4.12 The allegations in Paragraph 4.12 of Plaintiff's Complaint consist of a legal conclusion to which no response is required. To the extent a response is required. Defendants deny the allegations contained in Paragraph 4.12 of Plaintiff's Complaint.

4.13 Defendants deny the allegations contained in Paragraph 4.13 of Plaintiff's Complaint.

4.14 The allegations in Paragraph 4.14 of Plaintiff's Complaint consist of a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 4.14 of Plaintiff's Complaint.

STATEMENT OF CLAIMS

1. First Statement of Claim. The allegations in Paragraph 1 of Plaintiff's Statement of Claims consist of a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 1 of Plaintiff's Statement of Claims.

2. Second Statement of Claim. The allegations in Paragraph 2 of Plaintiff's Statement of Claims consist of a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 2 of Plaintiff's Statement of Claims. Further, Defendant SRI admits that in certain instances, it

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may be considered to have engaged in "communications" as that term is defined by 15 U.S.C. §1692a(2). However, Defendant lacks sufficient knowledge to admit or deny the allegation that it engaged in "communications" in the present case, and further states that this allegation calls for a legal conclusion regarding the definition of the cited statute. Therefore, Defendant denies the same. Defendants also admit that in certain instances, an alleged obligation may be considered a "debt" as that term is defined by 15 U.S.C. §1692a(5). However, Defendants lack sufficient knowledge to admit or deny the allegation that the alleged obligation is a "debt" in the present case, and further states that this allegation calls for a legal conclusion regarding the definition of the cited statute. Therefore, Defendants deny the same. Defendants deny all remaining allegations in Paragraph 2 of Plaintiff's Statement of Claims.

3. Third Statement of Claim. The allegations in Paragraph 3 of Plaintiff's Statement of Claims consist of a legal conclusion to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 3 of Plaintiff's Statement of Claims.

DEMAND FOR RELIEF

Defendants deny that Plaintiff is entitled to judgment, damages, attorneys fees, costs, or interest.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

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2. Defendants affirmatively allege that Plaintiff is not entitled to recover any damages, or any recovery awarded should be reduced by the amount of damages that reasonably could have been avoided, because Plaintiff failed to take reasonable steps to mitigate her damages with respect to the matters alleged in the Complaint.

3. Defendants allege that any actions of the Defendants and its agents and/or employees are protected by the "bona fide error" defense pursuant to the Fair Debt Collection Practices Act, since such actions or inactions, if they occurred and if they resulted in a violation of the FDCPA, were not intentional and resulted from a bona fide error notwithstanding the Defendants' maintenance of procedures reasonably adapted to avoid such errors.

4. Defendants deny any liability; however, in the event any liability is established, Plaintiff has suffered no actual damages.

5. Defendants affirmatively allege that Defendants are not liable for the alleged actions or inactions of other third parties, and/or any of their employees, agents or principals.

6. Defendants reserve the right to assert any other affirmative defenses as revealed within the discovery process.

RESERVATION OF ADDITIONAL DEFENSES

Defendants specifically and expressly reserve the right to amend this Answer to add, delete or modify affirmative defenses based on legal theories, facts, and circumstances that may or will be developed through discovery or further legal analysis of Plaintiff's claim and Defendants' position in this matter.

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WHEREFORE, Defendants respectfully request that this Honorable Court deny Plaintiff any relief under its Complaint, award Defendants their attorney's fees and costs, and grant all further relief as this Court deems just and equitable.

Dated this 22nd day of February 2017.

Simburg, Ketter, Sheppard & Purdy, LLP

s/ Andrew D. Shafer
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CERTIFICATE OF SERVICE

I hereby certify that on the date below I electronically filed the foregoing Notice of Removal with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

None.

And I hereby certify that I have e-mailed and mailed by United States Postal Service the document to the following non CM/ECF participants:

Jonathan Baner
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Attorney for Plaintiff

DATED: February 22, 2017.

SIMBURG, KETTER, SHEPPARD
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s/ Amber Harris
Legal Assistant

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